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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,565	05/04/2006	Marc Theisen	10191/4154	2955
26646 7590 09/14/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
ARTHUR JEANGLAUDE, GERTRUDE				
ART UNIT		PAPER NUMBER		
3661				
MAIL DATE		DELIVERY MODE		
09/14/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/561,565

**Applicant(s)**

THEISEN ET AL.

**Examiner**GERTRUDE ARTHUR  
JEANGLAUD**Art Unit**

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-16 and 18-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 31 is/are allowed.  
6) ☒ Claim(s) 12-16 and 18-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 112***

Claims 12-16, 18-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the vertical axis acceleration signal" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the vertical axis acceleration signal" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claims 13-16, 18-20, 22-30 are also rejected for incorporating the deficiencies of their base claim.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12, 21, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the specification to

affirm (the triggering of the occupant protection device as a function of the calculated trigger signal "if the acceleration value in the z direction is below a threshold").

***Allowable Subject Matter***

Claim 31 is allowed.

Claims 23-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to disclose the limitations of claims 23 and 27 wherein it discloses simultaneously with at least one of the first detecting and the second detecting, a third signal that is incorporated into the calculating of the trigger signal is simultaneously detected, the first measured variable includes at least one of an acceleration value in an x direction, and acceleration value in a y direction, and a measured variable that describes at least one of an area ahead of the vehicle and a vehicle surroundings, and the detecting of the first measured variable is performed by an acceleration sensor and the detecting of at least one of the area of the vehicle and the vehicle surroundings are accomplished by one of a radar sensor, a lidar sensor, a video sensor, and an ultrasonic sensor.

### ***Response to Arguments***

Applicant's arguments filed 6/9/09 have been fully considered but they are not persuasive.

Applicant's representative argues on pages 9-10 of response dated 6/9/09 that "the supporting sections of the specification represented below. Specifically, on page 2, lines 10 to 13, the specification specifically discloses and describes as follows: "In this way, a high acceleration value in the x/y plane, for example which would result in a deployment, may be corrected with a **likewise** occurring acceleration value in the z direction, in order to avoid an erroneous deployment, e.g., when driving off-road."

It is unclear to Examiner how that supporting section corresponds to the claimed language "if the acceleration value in the z direction is below a threshold".

Applicant's representative further argues on page 10 that "It is plain that a person of ordinary skill in the art may implement – without undue experimentation - - a device in which the occupant protection device is triggered if the acceleration value in the z direction is below a threshold. Therefore, Applicant's representative concedes that such limitation is not supported by the specification by citing such an obvious statement.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERTRUDE ARTHUR JEANGLAUD whose telephone number is (571)272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gertrude Arthur-Jeanglaude/  
Primary Examiner, Art Unit 3661